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SENATE, No. 2211

STATE OF NEW JERSEY

215th LEGISLATURE

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SYNOPSIS

The "New Jobs for New Jersey Act."

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee on January 14, 2013, with amendments.

(Sponsorship Updated As Of: 2/15/2013)

1 **AN ACT** concerning tax credits for certain employers who hire
 2 certain unemployed workers and supplementing P.L.1948, c.446
 3 (C.34:1A-1 et seq.). P.L.1945, c.162 (C.54:10A-1 et seq.) and
 4 Title 54A of the New Jersey Statutes.

5
 6 **BE IT ENACTED** *by the Senate and General Assembly of the*
 7 *State of New Jersey:*

8
 9 1. This act shall be known and may be cited as the “New Jobs
 10 for New Jersey Act.”

11
 12 2. As used in this act:

13 “Average total number of full-time employees” means, for an
 14 employer during any 12-month period, the average number of full-
 15 time employees of the employer, based on the employer’s average
 16 weekly rate of full-time employment during that period.

17 “Commissioner” means the Commissioner of Labor and
 18 Workforce Development.

19 “Department” means the Department of Labor and Workforce
 20 Development.

21 “Eligible individual” means an individual who was hired by an
 22 employer as a full-time employee, was not previously employed by
 23 the employer, and did not have full-time employment at any time
 24 during a period of 30 days or more days immediately prior to being
 25 hired by the employer. An eligible individual shall not include an
 26 independent contractor or a consultant.

27 “Employer” means any nongovernmental business entity
 28 including, but not limited to a corporation, S corporation, limited
 29 liability ¹**【corporation】** company¹, partnership, limited ¹**【liability】**¹
 30 partnership, and sole proprietorship, and shall include all entities
 31 related by common ownership or control, that had an average
 32 weekly number of full-time employees of not more than 100
 33 employees during the 12 months immediately preceding ¹**【October**
 34 **1, 2012】** April 1, 2013.¹

35 “Employer payroll taxes” means the sum of all taxes imposed on
 36 an employer by the following: section 3111 of the Federal Insurance
 37 Contributions Act (26 U.S.C. s.3111); the Federal Unemployment
 38 Tax Act (26 U.S.C. s.3301 et seq.); subsections (a), (b), and (c) of
 39 R.S.43:21-7 for purposes of the “unemployment compensation law”
 40 (R.S.43:21-1 et seq.); subsection (e) of R.S.43:21-7 for purposes of
 41 the “Temporary Disability Benefits Law,” P.L.1948, c.110
 42 (C.43:21-25 et al.); section 2 of P.L.1992, c.44 (C.34:15D-13) for
 43 purposes of the Workforce Development Partnership Fund; and
 44 section 2 of P.L.2001, c.152 (C. 34:15D-22) for purposes of the
 45 Supplemental Workforce Fund for Basic Skills.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLA committee amendments adopted January 14, 2013.

1 “Full-time employee” means an employee working not less than
2 35 hours per week for an employer.

3
4 3. a. There is established in the department a New Jobs for
5 New Jersey tax credit program to be administered by the
6 commissioner. The purpose of the program is to provide incentives
7 to private sector employers who increase their workforce by hiring
8 unemployed workers. Under the program, an employer shall be
9 eligible for a New Jobs for New Jersey tax credit in the amount
10 provided in subsection b. of this section against the corporation
11 business tax imposed pursuant to section 5 of P.L.1945, c.162
12 (C.54:10A-5) or the gross income tax imposed pursuant to the “New
13 Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., whichever of
14 the two taxes is applicable to the employer, for each eligible
15 individual employed by the employer ‘in this State’ on a full-time
16 basis during a tax year, if the following requirements are met:

17 (1) The eligible individual or individuals are hired by the
18 employer after ‘【October 1, 2012】 April 1, 2013’ and employed
19 full-time during the tax year for which the tax credit is provided;

20 (2) The employer employs an average total number of full-time
21 employees during the tax year for which the tax credit is provided
22 which exceeds the average total number of full-time employees
23 employed by the employer during the 12-month period immediately
24 prior to ‘【October 1, 2012】 April 1, 2013’; and

25 (3) The employer applies for the tax credit in the manner
26 required by the commissioner and the commissioner approves the
27 application, and the employer makes available as requested by the
28 commissioner, all information regarding the number, wages, and
29 employer payroll taxes of employees of the employer, and any other
30 information deemed necessary by the commissioner to ensure
31 compliance with the requirements of this act.

32 b. The amount of the refundable tax credit provided to an
33 approved employer for each eligible individual employed during a
34 tax year shall be the total amount of the employer payroll taxes paid
35 during that tax year by the employer with respect to the eligible
36 individual, subject to the requirements of subsection a. of this
37 section. The employer shall receive the tax credit for the number of
38 eligible individuals employed full-time during the tax year, except
39 that the number of eligible individuals for which the employer
40 receives the tax credit shall not exceed the net increase in the total
41 number of full-time employees. For the purposes of this subsection,
42 “net increase in the total number of full-time employees” means the
43 increase, if any, which occurs in the average total number of
44 individuals employed by the employer full-time during the tax year
45 over the average total number of full-time employees employed by
46 the employer during the 12-month period immediately preceding
47 ‘【October 1, 2012】 April 1, 2013’.

1 c. An employer may apply for and qualify for a tax credit
2 pursuant to this act with respect to tax years 'beginning in calendar
3 year' 2013, 2014, or 2015. If the employer's application is
4 approved for any of those three tax years, the employer may
5 continue to receive '[the] an amount of' tax credit 'computed
6 pursuant to subsection b. of this section' for any of the tax years:

7 (1) which is in the four-year period immediately following the
8 first tax year for which the tax credit is approved; and

9 (2) during which the employer meets the requirements of this
10 section to qualify for the tax credit.

11 d. Upon a determination by the commissioner that the
12 employer submitting the application is in compliance with the
13 requirements of this act, the commissioner shall certify to the
14 Director of the Division of Taxation that the employer is eligible for
15 a tax credit under this act and the amount of the tax credit, and shall
16 provide a copy of the certification to the employer.

17
18 4. The commissioner shall provide to the Legislature and the
19 public, not later than July 1, 2014 and July 1 of each subsequent
20 year, until and including 2020, a report on the program which shall
21 include, for the tax year immediately preceding the report each
22 year, comprehensive data on the costs and benefits of the program,
23 including the number of participating employers, total amount of
24 tax credits, and the number of new jobs created and any resulting
25 benefits of the new jobs, including increased tax revenues. The
26 report shall include any recommendations the commissioner deems
27 appropriate regarding the possible extension of the duration, or
28 other modification, of the program.

29
30 5. The commissioner shall promulgate rules and regulations
31 necessary for the effective implementation of this act.
32 Notwithstanding any provision of the "Administrative Procedure
33 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
34 commissioner may adopt, immediately upon filing with the Office
35 of Administrative Law, such regulations as are necessary to
36 implement the provisions of this act, which shall be effective for a
37 period not to exceed 12 months following enactment, and may
38 thereafter be amended, adopted, or readopted by the commissioner
39 in accordance with the requirements of the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

41
42 6. A taxpayer shall be allowed a credit against the corporation
43 business tax imposed pursuant to section 5 of P.L.1945, c.162
44 (C.54:10A-5) in the amount certified by the Commissioner of Labor
45 and Workforce Development as the taxpayer's New Jobs for New
46 Jersey tax credit amount pursuant to section 3 of '[this act] P.L. __,
47 c. __ (C. __) (pending before the Legislature as this bill)'. To
48 claim the New Jobs for New Jersey tax credit amount 'for a

1 privilege period¹, the taxpayer shall include, with the taxpayer's
2 annual corporation business tax return, the certificate of credit
3 issued 'for that privilege period' by the Commissioner of Labor and
4 Workforce Development pursuant to section 3 of '[this act] P.L. , c. (C.) (pending before the Legislature as this bill)'.
5

6 Notwithstanding the minimum tax schedule imposed pursuant to
7 subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the
8 amount of the tax credit allowed exceeds the amount of corporation
9 business tax otherwise due pursuant to section 5 of P.L.1945, c.162
10 (C.54:10A-5), the amount of excess shall be treated as a refundable
11 overpayment except that interest shall not be paid pursuant to
12 section 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of
13 overpayment attributable to the New Jobs for New Jersey tax credit
14 amount. The Director of the Division of Taxation shall determine
15 the order of priority of the application of the credit allowed
16 pursuant to this section and any other credits allowed by law.
17

18 7. a. A taxpayer shall be allowed a credit against the gross
19 income tax imposed pursuant to the "New Jersey Gross Income Tax
20 Act" N.J.S.54A:1-1 et seq. in the amount certified by the
21 Commissioner of Labor and Workforce Development as the
22 taxpayer's New Jobs for New Jersey tax credit amount pursuant to
23 section 3 of '[this act] P.L. , c. (C.) (pending before the
24 Legislature as this bill)'. To claim the New Jobs for New Jersey tax
25 credit amount 'for a taxable year' the taxpayer shall include, with
26 the taxpayer's annual gross income tax return, the certificate of
27 credit issued 'for that taxable year' by the Commissioner of Labor
28 and Workforce Development pursuant to section 3 of '[this act] P.L. , c. (C.) (pending before the Legislature as this bill)'.
29

30 If the amount of the credit allowed exceeds the amount of gross
31 income tax otherwise due pursuant to the "New Jersey Gross
32 Income Tax Act," N.J.S.54A:1-1 et seq. the amount of excess shall
33 be treated as a refundable overpayment except that interest shall not
34 be paid pursuant to subsection (f) of N.J.S.54A:9-7 on the amount
35 of overpayment attributable to the New Jobs for New Jersey tax
36 credit amount. The Director of the Division of Taxation shall
37 determine the order of priority of the application of the credit
38 allowed pursuant to this section and any other credits allowed by
39 law.
40

41 8. This act shall take effect immediately.